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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,847	06/04/2001	Yutaka Hasegawa	2552-000003	4834

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EXAMINER

CHEUNG, MARY DA ZHI WANG

ART UNIT PAPER NUMBER

3621

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/873,847

Applicant(s)

HASEGAWA, YUTAKA

Examiner

Mary Cheung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention "Restriction Canceling Apparatus" is not descriptive because there is nowhere in the specification teaches the subject matter of "canceling". It appears that the word "canceling" is a literal translation from Japanese, but this translation does not fit into the specification. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The claims 1-6 comprise the subject matters of "restriction canceling apparatus", "restriction canceling system", "restriction canceling method", and "restriction canceling data". However, there is nowhere in the specification teaches the subject matter of "canceling". It appears that the word "canceling" is a literal translation from Japanese, but it does not fit into the specification.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sako et al., U. S. Patent Application Publication Number: US 2002/0128936 A1 in view of Shah-Nazaroff et al., U. S. Patent 6,157,377.

As to claim 1, Sako teaches a restriction apparatus comprising:

- a) A memory that stores content consisting of a plurality of relating parts whose functions are restricted (the left column of page 3 and Figs. 5-7C);
- b) A first receiver that receives a first request of a client for transmission of the content (right column lines 3-15 of page 4 and Fig. 6);
- c) A first transmitter that transmits said content to said client upon said first request (Figs. 3, 8).

Sako does not specifically teach a plurality of restriction canceling data, each corresponding to one of said parts, and a second receiver that receives a second request of said client for transmission of at least one of the restriction canceling data, and a second transmitter that transmits the restriction canceling data to said client upon said second request. However, these matters are taught by Shah-Nazaroff as a plurality of upgrading data (restriction canceling data), each corresponding to one of the parts that related to the content, and a receiver that receives a request from the client of

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upgrading the content, and a transmitter that transmits the upgrading data upon the upgrading request (abstract and Figs. 3-4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to the teaching of Sako to include the upgrading apparatus as taught by Shah-Nazaroff because this would allow the client to keep on updating his or her possession (i.e. music, software) as needed by simply request an upgrade.

As to claim 2, Sako teaches a charging device that charges said client for the content (Figs. 7A-10).

As to claim 3, Sako teaches storing a transmission record of the data to said client (Figs. 6). Sako does not specifically teach storing a transmission record of upgrading data (restriction canceling data) to said client. However, Shah-Nazaroff teaches this matter (Figs. 3-4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the teachings of Sako to include the feature of storing the record of upgrading data so that the billing information can be better tracked.

As to claim 3, Sako further teaches said charging device charges client first amount money (Figs. 7A-10). Sako does not specifically teach charging the client a second amount money which is lower than the first amount money when at least one of the upgrading data has already transmitted to said client. It would have been obvious to one of ordinary skill in the art to charge lower amount money to the client if the transmitted data is for upgrading the existed data because this would promote faster

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sale of the data by providing the client with a cheaper price for upgrades rather than an expensive price for purchasing the entire new data.

Claims 4-6 are rejected for the similar reasons as claim 1.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Grosh et al. (U. S. Patent 6,195,646) discloses a supplier determines one or more pricing models to govern the purchase of some information.

Schneck et al. (U. S. Patent 6,314,409) discloses determine and protect the rules for accessing data.

Wada (JP 2000270309 A) discloses collect a proper charge with respect to the quality of contents actually viewed by a user.

***Inquire***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (703)-305-0084. The examiner can normally be reached on Monday – Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (703) 305-9768.

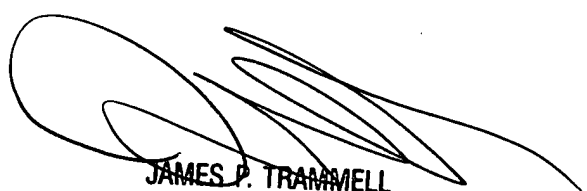
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

The fax phone number for the organization where this application or proceedings is assigned are as follows:

(703) 872-9306      (Official Communications; including After Final  
Communications labeled "BOX AF")  
(703) 746-5619      (Draft Communications)

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, 7<sup>th</sup> Floor Receptionist.

Mary Cheung  
Patent Examiner  
Art Unit 3621  
September 9, 2003



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